

HAWAII ADMINISTRATIVE RULES
TITLE 19

DEPARTMENT OF TRANSPORTATION
CHAPTER 122

EXAMINATION OF APPLICANTS FOR ISSUANCE AND RENEWAL OF MOTOR
VEHICLE DRIVER'S LICENSES AND INSTRUCTION PERMITS

SUBCHAPTER 3
REQUIREMENTS FOR DRIVER EDUCATION INSTRUCTORS

§19-122-160 **General provisions**. (a) No person shall be certified as a driver education or behind-the-wheel driving instructor unless the applicant satisfies the following conditions:

- (1) Possesses a valid Hawaii driver's license with the classification and endorsements required for operation of the class and type of motor vehicle used in driver education;
- (2) Has successfully completed a training course certified, or subsequently certified, by the department in subchapter 6. Instructors who have been certified by the department of education within five years prior to the effective date of the original version of the instant rules section, will be considered to have successfully completed a department certified course;
- (3) Subject to section 19-122-163(h), applicant has not had more than one moving traffic violation within one year prior to obtaining certification; not more than two moving traffic violations within three years prior to obtaining certification; and not more than three moving traffic violations within five years prior to obtaining certification;
- (4) Has no driving under the influence of alcohol or drugs conviction within five years prior to obtaining certification;
- (5) Has no driver's license suspension, revocation, cancellation or disqualification within three years prior to obtaining certification;
- (6) Is at least 21 years of age and possesses the equivalent of a high school diploma;
- (7) Has had a valid driver's license recognized by the State of Hawaii for at least five years;
- (8) Meets the requirements of subchapter 4, provided that "applicants" and "employees" and "persons who have been employed continuously by the department of education on a salary basis prior to July 1, 1990" as defined in chapter 8-7, Hawaii Administrative Rules, may meet this requirement by complying with chapter 8-7. At the expiration of the chapter 8-7 certification, "applicants" and "employees" as defined in Chapter 8-7, must recertify according to subchapter 4; and
- (9) Has effective communication skills; is capable of assessing and observing appropriate student behavior; is capable of engaging students in meaningful driver education activities; and models positive driving behaviors.

(b) Application for instructor certification shall be made on a form supplied by the department which shall require the following information and attachments:

- (1) Full name, residence and business address(es), telephone and fax number(s), and email

- address (if any);
- (2) A copy of original Social Security card;
 - (3) A certified copy of the applicant's birth certificate;
 - (4) A copy of the person's:
 - (A) Driver's license
 - (B) High school diploma or equivalent
 - (C) Driver education instructor certificate;
 - (5) An original traffic abstract;
 - (6) Proof of insurance in the amounts described in sections 19-122-163(g) and 19-122-166;
 - (7) A certified or sealed copy of a Hawaii criminal history record check showing convictions, and proof of application for a FBI Criminal History Record Check as defined in subchapter 4;
 - (8) A statement agreeing to indemnify, defend and hold harmless the department and the county from liability resulting from the instructor's teaching of driver's education or behind-the-wheel driving courses;
 - (9) Employment history for the ten years prior to the date of the application, with names, addresses and telephone numbers of current and former employers that are listed;
 - (10) State general excise tax number and tax clearance;
 - (11) Two 2" x 2" photos;
 - (12) A sworn statement indicating:
 - (A) Whether the person ever had a teaching certificate or other professional license revoked or not renewed;
 - (B) Whether the person within the past ten years was suspended, fired, asked to resign from employment, or separated from military service under conditions other than honorable;
 - (C) Whether the person had been convicted of a crime, other than a minor traffic offense involving a fine of \$50 or less;
 - (D) Whether the person had been diagnosed as having a mental or emotional condition which may affect the person's ability to responsibly manage, supervise, control and interact with children;
 - (E) A detailed explanation for each of the above when applicable.
 - (F) Names, addresses and phone numbers of at least five persons who can attest to the good character of the applicant. [Eff and comp]
- Auth: HRS §286-108; SLH 1999, Act 175) (Imp: HRS §286-108; SLH 1999, Act 175)

§19-122-161 Certification courses for instructors. All applicants for certification as instructors must complete a course in driver education and behind-the-wheel teaching methods that has been certified, or subsequently certified, by the department:

- (1) Courses that are offered by the University of Hawaii to certify driver education instructors for the department of education are pre-approved to meet this requirement.
- (2) The curricula of other instructor training courses shall be submitted to the department for review and certification by a task force established by the department and

certification by the director, as provided in subchapter 6. [Eff and comp
] (Auth: HRS §286-108; SLH 1999, Act 175) (Imp: HRS §286-108;
SLH 1999, Act 175)

§19-122-162 Duties and responsibilities of driver education instructors and other providers. The duties and responsibilities of driver education instructors and other providers shall be as follows:

- (1) Conduct instruction in accordance with the requirements of this chapter;
 - (2) Maintain records of all students taught for five years. Each record shall include:
 - (A) Student's complete name, address and birth date;
 - (B) Student's permit or driver license number with the jurisdiction that issued the license, if applicable;
 - (C) Dates the student took and completed the course and attendance record;
 - (D) A copy of the written contract, if applicable, with any person being taught, including amounts charged for the course(s); and
 - (E) A notarized statement from a parent or guardian received by the driver education instructor or provided prior to the issuance of the behind-the-wheel student completion certificate, stating that the applicant has completed forty hours of day-time driving and ten hours of night-time driving supervised by a licensed driver over the age of eighteen. Applicants for a Class 1 or 2 license are exempt from the ten hours of night-time supervised driving.
 - (3) Issue a driver education student completion certificate or behind-the-wheel student completion certificate or both when all requirements of this chapter have been successfully completed;
 - (4) Be in full compliance with all department rules; and
 - (5) Cooperate fully with the department in the investigation of any complaint relating to their certification as an instructor under this chapter. Failure to do so will result in the termination of the driver education instructor certificate as required in section 19-122-165.
- (b) The duties and responsibilities of driver education instructors shall also be as follows:
- (1) Participate in professional development courses, including driver education courses, workshops, seminars;
 - (2) Notify the department of any changes that would disqualify them from meeting the requirements of section 19-122-160. Failure to do so shall result in termination of the driver education instructor certificate as required in section 19-122-165; and
 - (3) Utilize a vehicle for behind-the-wheel training that meets the requirements of section 19-122-166. [Eff and comp
] (Auth: HRS §286-108; SLH 1999, Act 175) (Imp: HRS §286-108; SLH 1999, Act 175)

§19-122-163 Driver education instructor certificate. (a) A driver education instructor certificate will be issued authorizing the instructor to conduct driver education or behind-the-wheel driving courses or both.

(b) The driver education instructor certificate will be granted upon satisfactory completion of a training course certified, or subsequently certified, under Section 19-122-161 and when all

requirements in section 19-122-160, have been met;

(c) The driver education instructor certificate shall be non-transferable.

(d) Subject to section 19-122-163(h), the driver education instructor certificate is renewable annually for three years with the submittal of a traffic abstract that records no more than one moving traffic violation within the past year, not more than two moving traffic violations within the past three years; and not more than three moving violations within the past five years; a state tax clearance; and proof of general liability and vehicle insurance.

(e) Every fifth year, the certificate will be renewed:

(1) Upon completion of all requirements in section 19-122-160; and

(2) Upon completion of a professional development course approved by the department.

(f) It is the responsibility of the certificate holder to initiate the renewal process.

(g) The instructor shall provide the department a certificate of liability insurance covering commercial general liability in the sum of one million dollars, in a form and with provisions satisfactory to the department, listing the State of Hawaii and the counties as additional insureds.

(h) If a certified instructor receives:

(1) One moving traffic violation in one year, the instructor shall be sent a warning letter by the department;

(2) If the instructor receives two moving traffic violations within three years, the instructor's certificate shall be suspended for three months;

(3) If the instructor receives three moving traffic violations within five years, the instructor's certificate shall be suspended for six months;

(4) If the instructor receives four moving traffic violations within ten years, the instructor's certificate shall be terminated with no right of appeal. [Eff and comp

] Auth: HRS §286-108; SLH 1999, Act 175)(Imp: HRS §286-108; SLH 1999, Act 175)

§19-122-164 Display of driver education instructor certificate. All instructors shall display their driver education instructor certificate to their students in the vehicle during the time of instruction. [Eff and comp] (Auth: HRS §286-108; SLH 1999, Act 175)(Imp: HRS §286-108; SLH 1999, Act 175)

§19-122-165 Denial or termination of driver education instructor certificate. (a) The department may deny any application for a driver education instructor certificate upon any of the following grounds:

(1) Failure to comply with or satisfy any of the requirements of this chapter;

(2) Falsification of any information provided to the department.

(b) Any instructor may voluntarily terminate a driver education instructor certificate by returning the certificate to the department with a signed letter of explanation.

(c) The department may revoke, suspend, cancel or terminate the driver education instructor certificate and require the return of the certificate upon any of the following grounds:

(1) Failure to comply with or satisfy any of the requirements of this chapter;

(2) Falsification of any records or information required by this chapter or otherwise relating to driver education;

(3) Commission of any act which endangers the student;

- (4) Driver license suspension, revocation, cancellation or disqualifications;
- (5) Inappropriate behavior directed toward a student by the instructor;
- (6) Mental or physical incapacity;
- (7) Unsatisfactory criminal history record check; or
- (8) Moving traffic violations as described in section 19-122-163(h).

(d) The department may allow the instructor to cure any deficiency, if curable, within thirty days of receipt of notice by the department.

(e) Any applicant whose application has been denied by the department or whose driver education instructor certificate has been suspended, revoked, canceled or terminated and who has not cured the deficiency may within ten calendar days after receiving the notice of denial, suspension, revocation, cancellation or termination appeal the department's action by submitting to the department a written request for an administrative review of the decision by the department. The request shall state the reasons why the application should not be denied, suspended, revoked or terminated. Upon such request, the department shall respond in writing with an administrative review decision within thirty calendar days. Failure to request a review within ten calendar days after receiving the notice of denial, suspension, revocation or termination of the application or driver education instructor certificate shall be deemed a waiver of a right to appeal.

(f) Any person aggrieved by the administrative review decision of the department may, within ten calendar days of the date of the decision, submit a written appeal of that decision to the department. The department may hold hearings on a timely appeal in accordance with chapter 91, Hawaii Revised Statutes. [Eff and comp] (Auth: HRS §286-108; SLH 1999, Act 175)(Imp: HRS §286-108; SLH 1999, Act 175)

§19-122-166 Driver education vehicle requirements. All vehicles used in behind-the-wheel driving courses must meet the following minimum standards:

- (1) The vehicle must have a current motor vehicle registration and safety check.
- (2) The vehicle must be in good working condition.
- (3) The vehicle must be equipped with dual brakes and instructor's eye check mirrors.
- (4) The vehicle must display a "Student Driver" sign in a prominent location on the vehicle.
- (5) The vehicle must be covered by insurance in a form and with provisions satisfactory to the department, including as a minimum:
 - (A) Bodily Injury--\$100,000 per person, \$300,000 per occurrence; and
 - (B) Property Damage--\$20,000 per occurrence.

The insurance policy must name the State of Hawaii and the counties as additional insureds unless the insurance coverage required by this section is included in the commercial general liability policy required by subsection 19-122-163(g).

- (6) All persons in the vehicle must use occupant protection at all times. [Eff and comp] (Auth: HRS §286-108; SLH 1999, Act 175) (Imp: HRS §286-108; SLH 1999, Act 175)

§19-122-167 Driver education seal. The department will issue each certified instructor a driver education seal which they shall use to place a seal upon the driver education student completion certificate or the behind-the-wheel student completion certificate. The director may charge instructors a refundable deposit of up to \$100 for the seal. The deposit, if

any, shall be returned when the seal is returned to the department. [Eff and comp
] (Auth: HRS §286-108; SLH 1999, Act 175) (Imp: HRS §286-108; SLH 1999, Act 175)